

PAUL, WEISS, RIFKIND, WHARTON &amp; GARRISON LLP

1285 AVENUE OF THE AMERICAS  
NEW YORK, NEW YORK 10019-6064  
TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)  
RANDOLPH E. PAUL (1946-1956)  
SIMON H. RIFKIND (1950-1995)  
LOUIS S. WEISS (1927-1950)  
JOHN F. WHARTON (1927-1977)

UNIT 5201, FORTUNE FINANCIAL CENTER  
5 DONGSANHUAN ZHONGLU  
CHAOYANG DISTRICT, BEIJING 100020, CHINA  
TELEPHONE (86-10) 5828-6300

SUITES 3601 – 3606 & 3610  
36/F, GLOUCESTER TOWER  
THE LANDMARK  
15 QUEEN'S ROAD, CENTRAL  
HONG KONG  
TELEPHONE (852) 2846-0300

ALDER CASTLE  
10 NOBLE STREET  
LONDON EC2V 7JU, UNITED KINGDOM  
TELEPHONE (44 20) 7367 1600

FUKOKU SEIMEI BUILDING  
2-2 UCHISAIWAICHO 2-CHOME  
CHIYODA-KU, TOKYO 100-0011, JAPAN  
TELEPHONE (81-3) 3597-8101

TORONTO-DOMINION CENTRE  
77 KING STREET WEST, SUITE 3100  
P.O. BOX 226  
TORONTO, ONTARIO M5K 1J3  
TELEPHONE (416) 504-0520

2001 K STREET, NW  
WASHINGTON, DC 20006-1047  
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200  
POST OFFICE BOX 32  
WILMINGTON, DE 19899-0032  
TELEPHONE (302) 655-4410

MATTHEW W. ABBOTT  
EDWARD T. ACKERMAN  
JACOB A. ALTMERSTEIN  
JUSTIN ANDERSON  
ALLAN J. ARFFA  
JONATHAN H. ASHTOR  
ROBERT A. ATKINS  
DAVID J. BALL  
SCOTT A. BARSHAY  
PAUL M. BATA  
J. STEVEN BIGHAMAN  
LYNN B. BAYARD  
CRAIG A. BENSON  
MARK S. BERGMAN  
DAVID M. BERNICK  
JOSEPH J. BIAL  
BRUCE BRENDLOM  
HANS CHRISTIAN BOEHNING  
ANGELA BONVINO  
ROBERT BRITTON  
DAVID W. BROWN  
SUSANNA M. BUERGEL  
JESSICA S. CAREY  
DAVID CARMON  
GREGORY J. CHEPIGA  
ELLEN N. CHING  
WILLIAM A. CLAREMAN  
LEWIS R. CLAYTON  
YAHONNES CLEARY  
RACHAEL G. COFFEY  
JAY COHEN  
KAREN L. CORNISH  
CHRISTOPHER J. CUMMINGS  
THOMAS V. DE LA BASTIDE III  
MEREDITH DEARBORN\*  
ARIEL J. DECKELBAUM  
KAREN L. DUNN  
ALICE BELISLE EATON  
ANDREW J. EICH  
GREGORY A. EZRING  
ROSS A. FIELDSTON  
ANDREW C. FINCH  
BRAD J. FINKELSTEIN  
BRIAN P. FINNEGAN  
ROBERTO FINZI  
PETER E. FISH  
HARRY FISCHMAN  
ANDREW J. FOLEY  
ANDREW J. FORMAN\*  
HARRIS B. FREIDUS  
CHRISTOPHER D. FREY  
MANUEL S. FREY  
ANDREW L. GALLES  
KENNETH A. GALLO  
MICHAEL E. GERTZMAN  
ADAM M. GIVERTZ  
SALVATORE GOGLIORMELLA  
NEIL GOLDMAN  
MATTHEW B. GOLDSTEIN  
ROBERTO A. GONZALEZ\*  
CATHERINE A. GOODALL  
ERIK GOODISON  
CHARLES H. GOODE, JR.  
ANDREW G. GORDON  
BRIAN S. GRIEVE  
UDI GROFMAN  
NICOLAS GROOMBRIDGE  
BRUCE A. HAFENPLAN  
ALAN J. HALPERIN  
CLAUDIA HAMMERMAN  
BRIAN S. HERMANN  
MICHELE HIRSHMAN  
ROBERT E. HOLO  
DAVID S. HUNTINGTON  
AMANDA HUSKIN  
LORETTA J. IPPOLITO  
WILLIAM A. ISAACSON\*  
JAREN JANGHORBANI  
BRIAN M. JANSON  
JEH C. JOHNSON  
MEREDITH J. KANE  
BRAD S. KARP  
PATRICK N. KARSNITZ  
JOHN C. KENNEDY

BRIAN KIM  
KYLE J. KIMPLER  
ALAN D. KORBERG  
ALAN W. KORNBERG  
DANIEL J. KRAMER  
CAITH KUSHNER  
DAVID P. LAKHDHIR  
JOHN E. LANGE  
GREGORY P. LAUFER  
BRUCE A. LEVY  
XIAOYU GREG LIU  
LORETTA E. LYNCH  
JEFFREY D. MARELL  
MARCO V. MASOTTI  
DAVID W. MAYO  
ELIZABETH R. MCCOLM  
JEFFREY J. MCGINN  
ALVARO MEMBRILLA  
MARK F. MENDELSON  
CLAUDINE MEREDITH-GOUJON  
WILLIAM B. MICHAEL  
JUDIE NG SHORTELL\*  
CATHERINE NYARADY  
JANE B. O'LEARY  
ALICE YOUNG K. OH  
BRAD R. OKUN  
KELLEY D. PARKER  
LINDSAY B. PARKS  
ANDREW M. PARLEN  
CHARLES J. PESANT  
JESSICA E. PHILLIPS\*  
VALERIE A. PHILLIPS  
JEFFREY J. RECHER  
CARL L. REISNER  
LORIN L. REISNER  
JEANNIE S. RHEE\*  
WALTER G. RICCIARDI  
WALTER RIEMAN  
RICHARD A. ROSEN  
ANDREW N. ROSENBERG  
JUSTIN ROSENBERG  
JACQUELINE P. RUBIN  
CHARLES F. "RICK" RULE\*  
RAPHAEL M. RUSSO  
ELIZABETH M. SACKSTEDER  
JEFFREY J. SAMERSTEIN  
JEFFREY B. SAMUELS  
KENNETH M. SCHNEIDER  
ROBERT B. SCHUMER  
JOHN M. SCOTT  
BRIAN SCRIVANI  
KYLE T. SEIFRIED  
KATHLEEN K. SHANMUGAM\*  
AUDREY J. SOLOWAY  
SCOTT M. SONTAG  
SARAH STASNYS  
TARIUN M. STEWART  
ERIC ALAN STONE  
AIDAN SYNNOTT  
BRENT TANNERBAUM  
RICHARD C. TARDOWE  
MONICA K. THURMOND  
DANIEL J. TOAL  
LAURA C. TURANO  
CONRAD VAN LOGGERENBERG  
LIZA M. VELAZQUEZ  
MICHAEL VOGEL  
RAMONA WATSON  
LAWRENCE V. WEE  
THEODORE V. WELLS, JR.  
LINDESEY L. WIERSMA  
STEVEN J. WILLIAMS  
LAWRENCE I. WITDORFICH  
AUSTIN WITT  
MARK B. WOAZLO  
JULIA MARVER MASON WOOD  
JENNIFER H. WU  
BETTY YAP\*  
JORDAN E. YARETT  
KAYE N. YOSHINO  
TONG YU  
TRACEY A. ZACCONE  
TANIE M. ZEITZER  
T. ROBERT ZOCHOWSKI, JR.

December 17, 2020

\*NOT ADMITTED TO THE NEW YORK BAR  
\*ADMITTED TO THE CALIFORNIA BAR

## VIA ECF

Honorable Margo K. Brodie  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al.*, No. 19-cv-00660 (E.D.N.Y.)

Dear Judge Brodie:

I write to update the Court on the parties' ongoing efforts to address several of the important issues raised in this litigation through mediation.

### I. Background

I have continued to receive call and videoconference data from the parties. I continue to be in communication with the Federal Defenders, Inc. ("Plaintiff") and their

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

counsel, and the government and representatives of the Metropolitan Detention Center (“MDC”) and Metropolitan Correctional Center (“MCC”).<sup>1</sup>

My communications with the Federal Defenders and the government focused on the following topics:

1. The current status of in-person legal visitation at both institutions.
2. The execution of the current protocol for scheduling and placing attorney-client phone calls at the MDC and the MCC.

## **II. Telephonic Contact**

The parties continue to schedule and facilitate legal phone calls under the Court Protocol for Attorney Calls and Teleconference Hearings. Pursuant to the Protocol, attorney-client calls were scheduled by Federal Defenders for afternoon slots of one-half hour each from 12pm to 3pm at the MDC and 1 to 3:30 pm at the MCC. As Your Honor is aware, the parties have also made efforts to expand legal call hours beyond the times provided in the Protocol. *See* ECF Nos. 70 & 76.

### **A. MCC**

According to the information received from the parties, MCC scheduled 174 calls between December 10 and December 16, 2020. 169 calls were completed, two were attempted but not completed, and three were cancelled or rescheduled by the requesting attorney. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some privacy, scheduling and technical issues this week.

### **B. MDC**

According to the information received from the parties, MDC scheduled 305 calls between December 10 and December 16, 2020. 289 calls were completed, four were attempted but not completed, one was rescheduled by the requesting attorney, and 11 were not completed for unknown reasons. We are working with the parties to gather more information about these calls. Federal Defenders report that 31 call requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

## **IV. Videoconferencing**

### **A. MCC**

According to the information received from the parties, MCC scheduled 37 videoconferences between December 10 and December 16, 2020. 35 were completed

---

<sup>1</sup> I held a joint mediation call with the parties on December 16, 2020.

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

as scheduled and two were not completed for unknown reasons. We are working with the parties to gather more information about these VTCs. Federal Defenders did not report that any call requests were pending for more than 48 hours. Additionally, Federal Defenders report some scheduling issues this week.

B. MDC

According to the information received from the parties, MDC scheduled 42 videoconferences between December 10 and December 16, 2020. 40 were completed as scheduled and two were not completed for unknown reasons. We are working with the parties to gather more information about these VTCs. Federal Defenders report that 31 VTC requests were pending for more than 48 hours. Additionally, Federal Defenders report some technical and scheduling issues this week.

V. In Person Visiting

The MDC continues its suspension of in-person visiting due to an uptick of COVID diagnoses in the institution. The government has indicated that it has taken steps to increase remote telephone capacity by adding additional telephone units on each floor. One of the quarantine units has already received a dedicated phone line which began to be utilized this week, and remaining telephone units are predicted to arrive next week. The government has also expressed its intent to provide additional videoconferencing capability for quarantine units.

Approval has been granted for the additional HVAC testing requested by plaintiff. I will continue to work with the parties to ensure the additional testing is scheduled as soon as possible. I also continue to monitor the progress of the resumption of electronic scheduling of in-person visiting, given that the MCC is still open for legal visits for inmates not in quarantine.

I continue to discuss with the parties the issue of staff who are observed not wearing masks correctly or at all. I will continue to monitor this issue and the institutions' response to the situation. I am also exploring with the parties the issue of delays in the receipt of legal mail.

Respectfully,

/s/ Loretta E. Lynch  
Loretta E. Lynch

cc: Sean Hecker, Kaplan, Hecker & Fink  
Seth D. Eichenholtz, U.S. Attorney's Office (E.D.N.Y.)  
Sean Greene, U.S. Attorney's Office (E.D.N.Y.)  
Matthew J. Modafferi, U.S. Attorney's Office (E.D.N.Y.)

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

Jeffrey Oestericher, U.S. Attorney's Office (S.D.N.Y.)  
David Jones, U.S. Attorney's Office (S.D.N.Y.)